



General Assembly

Amendment

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Offered by:

REP. GUERRERA, 29th Dist.

REP. DARGAN, 115th Dist.

REP. REYNOLDS, 42nd Dist.

To: Subst. Senate Bill No. 298

File No. 161

Cal. No. 491

"AN ACT CONCERNING THE PENALTY FOR FAILURE TO REMOVE SNOW AND ICE FROM MOTOR VEHICLES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsections (a) and (b) of section 14-227a of the general
4 statutes are repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2008*):

6 (a) No person shall operate a motor vehicle while under the
7 influence of intoxicating liquor or any drug or both. A person commits
8 the offense of operating a motor vehicle while under the influence of
9 intoxicating liquor or any drug or both if such person operates a motor
10 vehicle (1) while under the influence of intoxicating liquor or any drug
11 or both, or (2) while such person has an elevated blood alcohol content.
12 For the purposes of this section, "elevated blood alcohol content"
13 means a ratio of alcohol in the blood of such person that is eight-
14 hundredths of one per cent or more of alcohol, by weight, and "motor

15 vehicle" includes a snowmobile and all-terrain vehicle, as those terms
16 are defined in section 14-379, except that if such person is operating a
17 commercial motor vehicle, "elevated blood alcohol content" means a
18 ratio of alcohol in the blood of such person that is four-hundredths of
19 one per cent or more of alcohol, by weight.

20 (b) Except as provided in subsection (c) of this section, in any
21 criminal prosecution for violation of subsection (a) of this section,
22 evidence respecting the amount of alcohol or drug in the defendant's
23 blood or urine at the time of the alleged offense, as shown by a
24 chemical analysis of the defendant's breath, blood or urine shall be
25 admissible and competent provided: (1) The defendant was afforded a
26 reasonable opportunity to telephone an attorney prior to the
27 performance of the test and consented to the taking of the test upon
28 which such analysis is made; (2) a true copy of the report of the test
29 result was mailed to or personally delivered to the defendant [within
30 twenty-four hours or by the end of the next regular business day,] not
31 later than three business days after such result was known; [,
32 whichever is later;] (3) the test was performed by or at the direction of
33 a police officer according to methods and with equipment approved
34 by the Department of Public Safety and was performed in accordance
35 with the regulations adopted under subsection (d) of this section; (4)
36 the device used for such test was checked for accuracy in accordance
37 with the regulations adopted under subsection (d) of this section; (5)
38 an additional chemical test of the same type was performed at least
39 [thirty] ten minutes after the initial test was performed or, if requested
40 by the police officer for reasonable cause, an additional chemical test of
41 a different type was performed to detect the presence of a drug or
42 drugs other than or in addition to alcohol, provided the results of the
43 initial test shall not be inadmissible under this subsection if reasonable
44 efforts were made to have such additional test performed in
45 accordance with the conditions set forth in this subsection and such
46 additional test was not performed or was not performed within a
47 reasonable time, or the results of such additional test are not
48 admissible for failure to meet a condition set forth in this subsection;

49 and (6) evidence is presented that the test was commenced within two
50 hours of operation. In any prosecution under this section it shall be a
51 rebuttable presumption that the results of such chemical analysis
52 establish the ratio of alcohol in the blood of the defendant at the time
53 of the alleged offense, except that if the results of the additional test
54 indicate that the ratio of alcohol in the blood of such defendant is
55 ~~[twelve-hundredths]~~ ten-hundredths of one per cent or less of alcohol,
56 by weight, and is higher than the results of the first test, evidence shall
57 be presented that demonstrates that the test results and the analysis
58 thereof accurately indicate the blood alcohol content at the time of the
59 alleged offense.

60 Sec. 502. Subsections (c) to (h), inclusive, of section 14-227b of the
61 general statutes are repealed and the following is substituted in lieu
62 thereof (*Effective July 1, 2008*):

63 (c) If the person arrested refuses to submit to such test or analysis or
64 submits to such test or analysis, commenced within two hours of the
65 time of operation, and the results of such test or analysis indicate that
66 such person has an elevated blood alcohol content, the police officer,
67 acting on behalf of the Commissioner of Motor Vehicles, shall
68 immediately revoke and take possession of the motor vehicle
69 operator's license or, if such person is a nonresident, suspend the
70 nonresident operating privilege of such person, for a twenty-four-hour
71 period. The police officer shall prepare a ~~[written]~~ report of the
72 incident and shall mail or otherwise transmit in accordance with this
73 subsection the report and a copy of the results of any chemical test or
74 analysis to the Department of Motor Vehicles within ~~[three]~~ five
75 business days. The report shall ~~[be made on a form approved]~~ provide
76 such information as prescribed by the Commissioner of Motor Vehicles
77 and shall be subscribed and sworn to under penalty of false statement
78 as provided in section 53a-157b by the arresting officer. If the person
79 arrested refused to submit to such test or analysis, the report shall be
80 endorsed by a third person who witnessed such refusal. The report
81 shall set forth the grounds for the officer's belief that there was
82 probable cause to arrest such person for ~~[operating a motor vehicle~~

83 while under the influence of intoxicating liquor or any drug or both] a
84 violation of subsection (a) of section 14-227a, as amended by this act,
85 and shall state that such person had refused to submit to such test or
86 analysis when requested by such police officer to do so or that such
87 person submitted to such test or analysis, commenced within two
88 hours of the time of operation, and the results of such test or analysis
89 indicated that such person had an elevated blood alcohol content. The
90 Commissioner of Motor Vehicles may accept a police report under this
91 subsection that is prepared and transmitted as an electronic record,
92 including electronic signature or signatures, in accordance with the
93 provisions of sections 1-266 to 1-286, inclusive, and subject to such
94 security procedures as the commissioner may prescribe.

95 (d) If the person arrested submits to a blood or urine test at the
96 request of the police officer, and the specimen requires laboratory
97 analysis in order to obtain the test results, the police officer shall not
98 take possession of the motor vehicle operator's license of such person
99 or, except as provided in this subsection, follow the procedures
100 subsequent to taking possession of the operator's license as set forth in
101 subsection (c) of this section. If the test results indicate that such
102 person has an elevated blood alcohol content, the police officer,
103 immediately upon receipt of the test results, shall notify the
104 Commissioner of Motor Vehicles and submit to the commissioner the
105 [written] report required pursuant to subsection (c) of this section.

106 (e) (1) Except as provided in subdivision (2) of this subsection, upon
107 receipt of such report, the Commissioner of Motor Vehicles may
108 suspend any operator's license or nonresident operating privilege of
109 such person effective as of a date certain, which date shall be not later
110 than thirty days after the date such person received notice of such
111 person's arrest by the police officer. Any person whose operator's
112 license or nonresident operating privilege has been suspended in
113 accordance with this subdivision shall automatically be entitled to a
114 hearing before the commissioner to be held in accordance with the
115 provisions of chapter 54 and prior to the effective date of the
116 suspension. The commissioner shall send a suspension notice to such

117 person informing such person that such person's operator's license or
118 nonresident operating privilege is suspended as of a date certain and
119 that such person is entitled to a hearing prior to the effective date of
120 the suspension and may schedule such hearing by contacting the
121 Department of Motor Vehicles not later than seven days after the date
122 of mailing of such suspension notice.

123 (2) If the person arrested (A) is involved in an accident resulting in a
124 fatality, or (B) has previously had such person's operator's license or
125 nonresident operating privilege suspended under the provisions of
126 section 14-227a, as amended by this act, during the ten-year period
127 preceding the present arrest, upon receipt of such report, the
128 Commissioner of Motor Vehicles may suspend any operator's license
129 or nonresident operating privilege of such person effective as of the
130 date specified in a notice of such suspension to such person. Any
131 person whose operator's license or nonresident operating privilege has
132 been suspended in accordance with this subdivision shall
133 automatically be entitled to a hearing before the commissioner to be
134 held in accordance with the provisions of chapter 54. The
135 commissioner shall send a suspension notice to such person informing
136 such person that such person's operator's license or nonresident
137 operating privilege is suspended as of the date specified in such
138 suspension notice, and that such person is entitled to a hearing and
139 may schedule such hearing by contacting the Department of Motor
140 Vehicles not later than seven days after the date of mailing of such
141 suspension notice. Any suspension issued under this subdivision shall
142 remain in effect until such suspension is affirmed or such operator's
143 license or nonresident operating privilege is reinstated in accordance
144 with subsections (f) and (h) of this section.

145 (f) If such person does not contact the department to schedule a
146 hearing, the commissioner shall affirm the suspension contained in the
147 suspension notice for the appropriate period specified in subsection (i)
148 or (j) of this section.

149 (g) If such person contacts the department to schedule a hearing, the

150 department shall assign a date, time and place for the hearing, which
151 date shall be prior to the effective date of the suspension, except that,
152 with respect to a person whose operator's license or nonresident
153 operating privilege is suspended in accordance with subdivision (2) of
154 subsection (e) of this section, such hearing shall be scheduled not later
155 than thirty days after such person contacts the department. At the
156 request of such person or the hearing officer and upon a showing of
157 good cause, the commissioner may grant one [continuance for a period
158 not to exceed fifteen days] or more continuances. The hearing shall be
159 limited to a determination of the following issues: (1) Did the police
160 officer have probable cause to arrest the person for operating a motor
161 vehicle while under the influence of intoxicating liquor or any drug or
162 both; (2) was such person placed under arrest; (3) did such person
163 refuse to submit to such test or analysis or did such person submit to
164 such test or analysis, commenced within two hours of the time of
165 operation, and the results of such test or analysis indicated that such
166 person had an elevated blood alcohol content; and (4) was such person
167 operating the motor vehicle. In the hearing, the results of the test or
168 analysis shall be sufficient to indicate the ratio of alcohol in the blood
169 of such person at the time of operation, except that if the results of the
170 additional test indicate that the ratio of alcohol in the blood of such
171 person is [twelve-hundredths] ten-hundredths of one per cent or less
172 of alcohol, by weight, and is higher than the results of the first test,
173 evidence shall be presented that demonstrates that the test results and
174 analysis thereof accurately indicate the blood alcohol content at the
175 time of operation. The fees of any witness summoned to appear at the
176 hearing shall be the same as provided by the general statutes for
177 witnesses in criminal cases.

178 (h) If, after such hearing, the commissioner finds on any one of the
179 said issues in the negative, the commissioner shall reinstate such
180 license or operating privilege. If, after such hearing, the commissioner
181 does not find on any one of the said issues in the negative or if such
182 person fails to appear at such hearing, the commissioner shall affirm
183 the suspension contained in the suspension notice for the appropriate

184 period specified in subsection (i) or (j) of this section. The
185 commissioner shall render a decision at the conclusion of such hearing
186 or send a notice of the decision by bulk certified mail to such person
187 not later than [thirty] sixty days [or, if a continuance is granted, not
188 later than forty-five days] from the date such person received notice of
189 such person's arrest by the police officer. The notice of such decision
190 sent by bulk certified mail to the address of such person as shown by
191 the records of the commissioner shall be sufficient notice to such
192 person that such person's operator's license or nonresident operating
193 privilege is reinstated or suspended, as the case may be. [Unless a
194 continuance of the hearing is granted pursuant to subsection (g) of this
195 section, if the commissioner fails to render a decision within thirty
196 days from the date such person received notice of such person's arrest
197 by the police officer, the commissioner shall reinstate such person's
198 operator's license or nonresident operating privilege, provided
199 notwithstanding such reinstatement the commissioner may render a
200 decision not later than two days thereafter suspending such operator's
201 license or nonresident operating privilege.]

202 Sec. 503. Subsection (k) of section 14-227b of the general statutes, as
203 amended by section 34 of public act 08-1 of the January 2008 special
204 session, is repealed and the following is substituted in lieu thereof
205 (*Effective July 1, 2008*):

206 (k) Notwithstanding the provisions of subsections (b) to (j),
207 inclusive, of this section, any police officer who obtains the results of a
208 chemical analysis of a blood sample taken from an operator of a motor
209 vehicle involved in an accident who suffered or allegedly suffered
210 physical injury in such accident, or who was determined by a police
211 officer to require treatment or observation at a hospital, shall notify the
212 Commissioner of Motor Vehicles and submit to the commissioner a
213 written report if such results indicate that such person had an elevated
214 blood alcohol content, and if such person was arrested for violation of
215 section 14-227a, as amended by this act, in connection with such
216 accident. The report shall be made on a form approved by the
217 commissioner containing such information as the commissioner

218 prescribes, and shall be subscribed and sworn to under penalty of false
219 statement, as provided in section 53a-157b, by the police officer. The
220 commissioner may, after notice and an opportunity for hearing, which
221 shall be conducted by a hearing officer on behalf of the commissioner,
222 in accordance with chapter 54, suspend the motor vehicle operator's
223 license or nonresident operating privilege of such person for the
224 appropriate period specified in subsection (i) or (j) of this section. Each
225 hearing conducted under this subsection shall be limited to a
226 determination of the following issues: (1) Whether the police officer
227 had probable cause to arrest the person for operating a motor vehicle
228 while under the influence of intoxicating liquor or drug or both; (2)
229 whether such person was placed under arrest; (3) whether such person
230 was operating the motor vehicle; (4) whether the results of the analysis
231 of the blood of such person indicate that such person had an elevated
232 blood alcohol content; and (5) whether the blood sample was obtained
233 in accordance with conditions for admissibility and competence as
234 evidence as set forth in subsection [(j)] (k) of section 14-227a, as
235 amended by this act. If, after such hearing, the commissioner finds on
236 any one of the said issues in the negative, the commissioner shall not
237 impose a suspension. The fees of any witness summoned to appear at
238 the hearing shall be the same as provided by the general statutes for
239 witnesses in criminal cases, as provided in section 52-260.

240 Sec. 504. Subsection (o) of section 14-227b of the general statutes is
241 repealed and the following is substituted in lieu thereof (*Effective July*
242 *1, 2008*):

243 (o) For the purposes of this section, "elevated blood alcohol content"
244 means (1) a ratio of alcohol in the blood of such person that is eight-
245 hundredths of one per cent or more of alcohol, by weight, (2) if such
246 person is operating a commercial motor vehicle, a ratio of alcohol in
247 the blood of such person that is four-hundredths of one per cent or
248 more of alcohol, by weight, or [(2)] (3) if such person is under twenty-
249 one years of age, a ratio of alcohol in the blood of such person that is
250 two-hundredths of one per cent or more of alcohol, by weight."